OA(S) 1/96

No. 2895/01
Filed today 24/10/01
by Shri A. Gedam

For Registrar,
C.A.T. State Administrative Tribunal,
RAIPUR

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BEFORE STATE ADMINISTRATIVE TRIBUNAL BENCH AT RAIPUR, C.G.

Original Application No. /2001

1. Vishnu Kumar Gupta, Age 40 years, Son of Shri Uday Ram Gupta, Patwari, Posted at P.C.No.16, Dhamtari, Post office ward, Ama Talab Road, Dhamtari (C.G.)

2. Ramesh Tiwari, Age 40 years, Son of Shri Govind Prasad Tiwari, Patwari, Posted at P.C.No.10, Bhakhara, Tahsil Kurud, District Dhamtari.

3. Ramesh Kumar Lahre, Age 35 years, Son of Shri Ghasi Ram Lahre, Patwari, Posted at P.C.No. 15/49, Hatkeshar, Tahsil Dhamtari, District Dhamtari.

4. Sukhdeo Dhruw, Son of Shri B.R.Dhruw Patwari, Posted at P.C.No.28, Kharenga, Tahsil and District Dhamtari (C.G.)

5. Chinta Ram Soni, Son of Late Mansha Ram Soni, Patwari, Posted at P.C.No.16, Tahsil Kurud District Dhamtari (C.G.) .. Applicants

Versus

1. State of Chhattisgarh, Through - Secretary, Department of Revenue, Ministry of Revenue, Mantralaya, D.K.S.Bhawan, Raipur (Chhattisgarh)

2. The Collector,
Dhamtari District,
~~XXXXXX~~ Dhamtari, Chhattisgarh.

3. Sub-Divisional Officer,
(Revenue), District Dhamtari
(Chhattisgarh). .. Non-Applicants

APPLICATION UNDER SECTION 19 OF STATE ADMINISTRATIVE TRIBUNAL ACT 1985

HIGH COURT OF JUDICATURE AT CHHATTISGARH: BILASPUR

DIVISION BENCH

CORUM	:	**HON'BLE SHRI S.R. NAYAK, C.J.**
	:	**HON'BLE SHRI D.R. DESHMUKH, J.**

WRIT PETITION (S) NO. 1/2006

PETITIONERS

1. Vishnu Kumar Gupta, Age 40 years, Son of Shri Uday Ram Gupta, Patwari, Posted at P.C. No.16, Dhamtari, Post Office Ward, Ama Talab Road, Dhamtari (C.G.)

2. Ramesh Tiwari, Age 40 years, Son of Shri Govind Prasad Tiwari, Patwari, Posted at P.C. No.10, Bhakhara, Tahsil Kurud, District – Dhamtari.

3. Ramesh Kumar Lahre, Age 35 years, Son of Shri Ghasi Ram Lahre, Patwari, posted at P.C. No.15/49, Hatkeshar, Tahsil Dhamtari, District - Dhamtari.

4 Sukhdeo Dhruw, Son of Shri B.R. Dhruw, Patwari, Posted at P.C. No.28, Kharenga, Tahsil and District – Dhamtari (C.G.)

5. Chinta Ram Soni, Son of Late Mansha Ram Soni, Patwari, Posted at P.C. No.16, Tahsil Kurud, District – Dhamtari (C.G.)

RESPONDENTS

1. State of Chhattisgarh,
Through – Secretary,
Department of Revenue,
Ministry of Revenue, Mantralaya,
D.K.S. Bhawan, Raipur
(Chhattisgarh)

2. The Collector,
Dhamtari District,
Dhamtari, Chhattisgarh

3. Sub-Divisional Officer,
(Revenue), District – Dhamtari,
(Chhattisgarh)

Present : Shri Alok Bakshi, Counsel for the petitioners.
Shri Utkarsh Verma, Dy. Govt. Advocate for the State.
Shri Ashok Swarnkar, Counsel for the Intervener.

ORAL ORDER

(Passed on 20th April 2006

The following oral order of the Court was passed by

S.R. NAYAK, CJ:

(1) The Writ Petitioners have assailed the transfer orders impugned in this Writ Petition mainly on two grounds namely (i) that the transfer orders are tainted by malafide on the part of transferring authority in order to help M/s Ghanshyam Yadav and Jawaharlal Dewangan who are *Prantiya Sangathan Mantri* and District Secretary of *Chhattisgarh Patwari Sangh* respectively and (ii) the transfer order has resulted in hardship to them.

(2) We have perused the petition averments.

(3) The allegations of malafide, if we may say so, as vague as it could be. Except vaguely stating that the impugned transfer orders are issued in order to accommodate M/s. Ghanshyam Yadav and Jawaharlal Dewangan, the petitioners have utterly failed to lay any factual matrix much less required factual matrix to bring home malafide. Secondly, the petitioners have not stated at whose

instance in the administration, the impugned orders are passed in order to favour M/s. Ghanshyam Yadav and Jawaharlal Dewangan. Therefore, the ground of malafide is not made out on the basis of which we could possibly step in under Article 226.

(4) This takes us to the next argument based on alleged hardship resulted consequent upon the impugned transfer order. It is well known that every transfer order results in some hardship and inconvenience. Nevertheless, it is expected that a public servant should bear that hardship and inconvenience in the public interest and in the interest of service for the State. Be that as it may, it is well settled by a catena of decisions of the Supreme Court and the High Courts that in a given case, if a transfer results in hardship to an employee, the employee should make a representation to the State employer for his consideration and it is for the State employer to appreciate the hardship of the employee and pass appropriate orders, and it is not for the Court to appreciate the relative hardship of employees in the matter of transfers. It is also well settled principle that it is legally permissible for the State employer to transfer an employee in order to accommodate another employee after appreciating the hardship of the latter, brought to his notice by way of representation etc. A transfer order cannot be challenged successfully unless it is shown that the order is issued by an incompetent authority or that the mandatory statutory rules are violated or that the transfer order is vindictive and is vitiated by malafide. None of the above grounds are made out to step in under Article 226 to interfere with the impugned orders.

(5) The Writ Petition is devoid of merits and it is accordingly dismissed.

(6) No costs.

Sd/-
S.R. Nayak
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

Rao